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SUBJECT: VIEWS OF IRAQI CHIEF JUSTICE ON GOVERNMENT,
JUDICIARY

Classified By: ROL Coordinator James Yellin for Reason 1.4 (d)

¶1. (C) SUMMARY: Iraqi Chief Justice al-Mahmoud told us on May 30 that members of the new Iraqi government and parliament owe their allegiances to their parties and sects rather than to the country as a whole. Al-Mahmoud said extremist factions within the new government and parliament want to create a weak judiciary. He complained about a lack of cooperation between the police and judicial investigators, and he said that a shortage of prosecutors more than a shortage of judges hinders the judicial process. (Comment: The remarks of al-Mahmoud notwithstanding, we believe that at least 1,200 judges are required. End Comment.) END SUMMARY.

THE NEW IRAQI GOVERNMENT

¶2. (C) Iraqi Supreme Court Chief Justice and President of the Higher Juridical Council (HJC) Medhat al-Mahmoud told State Department Rule of Law (ROL) Coordinator Hanrahan, INL Iraq ROL Advisor Garcia, and Embassy ROL Coordinator that members of the new Iraqi government and parliament owe their allegiances to their parties and sects rather than to the country as a whole. Al-Mahmoud said that members of the new government and parliament will use their positions to promote narrow sectarian or party agendas.

JUDICIAL LEGISLATION

¶3. (C) Al-Mahmoud, a secular Shia and political independent, expressed particular concern that extremist Sunni and Shia factions in parliament aim to create a weak judiciary by passing legislation that will undermine judicial independence. Al-Mahmoud requested U.S. intervention to preserve judicial independence and ensure a role for the HJC in drafting judicial legislation. Embassy ROL Coordinator replied that the U.S. mission agrees entirely on the need for an independent judiciary.

LACK OF JUSTICE INTEGRATION

¶4. (C) Al-Mahmoud said interministerial cooperation between the HJC and the ministries of interior, defense and justice has nearly halted, hindering the justice process. He added that poor police investigations and lack of cooperation between the police and judicial investigators hampers prosecutions.

LACK OF JUDICIAL STAFF

¶5. (C) Al-Mahmoud told us that a shortage of prosecutors is a larger problem than a shortage of judges. Al-Mahmoud said he will take steps to address the shortage of prosecutors by appointing 80 practicing lawyers as prosecutors in 2006. He added that in 2007 he will appoint 120 of the 180 students at the Judicial Training Institute as prosecutors and 60 as judges. He noted that prosecutors can also serve as investigative judges.

COMMENT

¶6. (C) The remarks of al-Mahmoud notwithstanding, we believe there is an immediate need for more judges. Al-Mahmoud has told us on two previous occasions that 1,200 judges are needed, compared to the current level of 720. We agree that at least 1,200 are required.

KHALILZAD